

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

THE ESTATE OF ERIK A. POWELL,) Civil No.
THROUGH PERSONAL REPRESENTATIVE) CV04-00428LEK
MARY K. POWELL; THE ESTATE OF)
JAMES D. LAUGHLIN, THROUGH PERSONAL)
REPRESENTATIVE RAGINAE C. LAUGHLIN;)
MARY K. POWELL, INDIVIDUALLY;)
RAGINAE C. LAUGHLIN, INDIVIDUALLY;)
CHLOE LAUGHLIN, A MINOR, THROUGH)
HER NEXT FRIEND, RAGINAE C.)
LAUGHLIN,)

Plaintiffs,)

vs.)

CITY AND COUNTY OF HONOLULU,)

Defendant,)

and)

CITY AND COUNTY OF HONOLULU,)

Third-Party Plaintiff,)

vs.)

UNIVERSITY OF HAWAII, a body)
corporate; JOHN DOES 1-10, JANE)
DOES 1-10; DOE CORPORATIONS and)
DOE ENTITIES,)

Third-Party Defendants.)

DEPOSITION OF DANIEL NEVES

Taken on behalf of Plaintiffs at the Law Offices
of Ian L. Mattoch, 737 Bishop Street, Suite 1835,
Honolulu Hawaii, commencing at 2:00 p.m. on March
24, 2006, pursuant to Notice.

Before: WILLIAM T. BARTON, RPR, CSR NO. 391

EXHIBIT "16"

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1 Q. That's new since these drownings?
2 A. Yes, yes.
3 Q. And then you said there's a guy who
4 patrols the ledges?
5 A. Correct.
6 Q. What does that person do?
7 A. That was actually my job. And I would
8 run back and forth both ledges, throughout the
9 day. And giving them breaks. And just pretty
10 much, because people can come to the Toilet Bowl
11 without even walking through Hanauma Bay. They
12 can just walk around.
13 So you never knew what could happen. So
14 we just always --
15 Q. Okay. From the time that you were
16 working at Hanauma Bay, did you have any other
17 rescues at Witches Brew, other than these two?
18 A. Yeah.
19 Q. Do you recall how many?
20 A. No. You know, I haven't even wrote half
21 of my rescues on paper. It's just we were
22 never -- we're too busy. As a contract, you don't
23 get paid for rescues. As a full-timer, you get
24 extra pay. And I just didn't even care.
25 Q. Care to document them?

1 (Whereupon, a recess was taken.)
2 BY MS. WATERS:
3 Q. Back on the record. We were talking
4 about your scheduling. So now I'd like to go to
5 the day of the incident, July 19, 2002.
6 You described the conditions of the day
7 as rough; is that right?
8 A. Correct.
9 Q. And you were in Tower 3 Alpha?
10 A. Correct.
11 Q. With Clarence Moses?
12 A. Correct.
13 Q. What I'd like you to do, please, is to
14 explain from the moment you saw the first victim,
15 everything, in a narrative format.
16 A. I seen the victim swimming to Witches
17 Brew. Probably, maybe 30 feet less to the Brew
18 itself. Catty-corner from across from Toilet Bowl
19 pointed to the Brew.
20 And I seen him, and I just ran, started
21 running right way. Moses said, Go, so I ran.
22 I was approached by a lady. And she was
23 asking about her husband and brother. And I said,
24 I'm sorry, I have to go, because I was booking at
25 the time, and running. And I couldn't stop to

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1 A. Yeah. Because what do I get for it?
2 Q. Although you may have made rescues, you
3 didn't document them?
4 A. Correct. And everyone at Hanauma Bay
5 can say that, as far as contract wise.
6 Q. Do you know who decided how many people
7 to staff as lifeguards at Hanauma Bay?
8 A. That's the chief's job.
9 MR. MAYESHIRO: Calls for speculation.
10 BY MS. WATERS:
11 Q. Who was the chief at that time?
12 A. Jim Howe.
13 Q. Did Jim Howe also decide who to put in
14 each tower?
15 A. No, that is actually the job of the
16 acting captain in the district.
17 Q. How about the scheduling?
18 A. Also the acting captain or lieutenant at
19 the time. But that doesn't mean that he did not
20 request it, Jim Howe. He could request anything.
21 Q. To the captain?
22 A. To them, and they would have to do it,
23 yes.
24 MS. WATERS: We can take a break now.
25 Ten-minute break.

1 talk with her.
2 And I ran by her, and I ran past the
3 nylon gate. And before I got to the nylon gate, I
4 could see exactly where he was. He was holding on
5 to the Brew, just getting smashed up against it.
6 Q. You mean the ledge?
7 A. The ledge, yeah. On the point side of
8 the ledge. More towards -- not on the back side.
9 And I could see that he was going to go down like
10 instantly, because you could tell he was
11 hyperventilating.
12 He had his mask off. I mean, right
13 away, a sign is when they throw the mask off, that
14 means they can't take it because they either --
15 the mask is fogging up or the water is going into
16 their snorkel, so they have to rip it up to
17 keep -- they feel like they need to, to keep their
18 head above water, but what they are actually doing
19 is killing themselves.
20 Q. Now, when you said you saw him holding
21 on to the ledge, where were you?
22 A. I was running around the corner from the
23 sand to the Brew.
24 Q. About how many feet or yards were you
25 from him at that point?